

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION, CINCINNATI

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LYNN D. TUCKER, Jr., et al., :  
Plaintiffs, :  
vs. : CASE NO.  
CITY OF FAIRFIELD, et al., : C-1-03-607  
Defendants. :  
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Deposition of: JANETTE MATALA

Taken: By the Plaintiffs  
Pursuant to Notice

Date: July 17, 2006

Time: Commencing at 10:23 a.m.

Place: Cook, Portune & Logothetis  
22 West Ninth Street  
Cincinnati, Ohio 45202

Before: Amy E. Milholland  
Notary Public - State of Ohio

COPY

1       incorrectly or incompletely, please correct me or  
2       complete the step of the process to the best of your  
3       knowledge, okay?

4           A.     Okay.

5           Q.     It appears to be standard practice that  
6       you first discern who the owner of the sign or object  
7       is, either from its location or from telephone  
8       numbers or identity listed on the sign or object?

9           A.     Correct.

10          Q.     The second thing you do is attempt to  
11       communicate with the owner or person or business, who  
12       placed the object in the right of way, either by  
13       using a phone number listed on the object or sign or  
14       by looking for the business that's associated in the  
15       immediate vicinity; is that correct?

16          A.     That's correct.

17          Q.     In the communication that you attempt, you  
18       attempt to advise the business owner or person, who  
19       has placed the object or sign in the right of way,  
20       that they're in violation of the city's zoning code;  
21       is that correct?

22          A.     Correct.

23          Q.     And you instruct them to remove it?

24          A.     Correct.

25          Q.     Following that, if they don't comply, most

1 often, you will call, if you observe it there, or it  
2 continues to be in the right of the way, you then  
3 communicate with them again that they have not  
4 complied and that they have to remove it; is that  
5 correct?

6 A. Correct.

7 Q. If after one or more verbal  
8 communications, oral communications, the object or  
9 sign remains in the right of way, you then send a  
10 certified letter to the business or the person  
11 identified, to the extent you've been able to  
12 identify them, demanding that it be removed  
13 immediately?

14 A. That's correct.

15 Q. Is that correct? Okay. Now, sometime  
16 following the sending of certified letter to the  
17 person or business owner or whomever placed an object  
18 or a sign in the right of way in violation, as you  
19 understand it, of the zoning code, if compliance has  
20 still not occurred, you then issue a summons to that  
21 person to appear in court?

22 MR. WEISENFELDER: Objection. Go ahead.

23 Q. Is that correct?

24 A. I write up a summons, and it's sent over  
25 to the court. I do not actually issue the summons

1 itself.

2 Q. When you say it's sent over to the court,  
3 it's sent to the court's clerk or what? How does  
4 that work?

5 A. Yes. It's taken over to the court clerk,  
6 and in return is given to the police department; and  
7 they hand deliver the court summons.

8 Q. Now, does the summons constitute a  
9 citation to court for violation of the zoning code?

10 A. Yes, it is.

11 Q. And in your experience when summonses are  
12 served, after this process we've just walked through,  
13 they're served by a police officer, who delivers it  
14 in person?

15 A. Correct.

16 Q. Is that police officer usually just one  
17 officer, just one person?

18 A. I have no idea.

19 Q. Have you ever observed a summons for a  
20 zoning code violation being served?

21 A. No, I have not.

22 Q. You were not present on July 31st, 2003  
23 when officer Fleener (phonetic) wrote the citation to  
24 Mr. Tucker, were you?

25 A. No, I was not.

1           Q. And that was on July 1st?

2           A. That's correct.

3           Q. So the only times that you have been  
4 involved in, now 18 years of service with the city of  
5 Fairfield that the police have actually come to  
6 enforce the zoning code immediately, are the two  
7 instances involving the machinist demonstration in  
8 front of Fairfield Ford on July 1st, 2003 and July  
9 31st, 2003?

10          A. I was only present for the first one on  
11 July 1st.

12          Q. And that's the only time, in your 18 years  
13 experience, that the police have actually arrived on  
14 the scene to enforce a zoning code violation, or  
15 alleged zoning code violation?

16           MR. WEISENFELDER: While she was there?

17           MR. COOK: Correct.

18          A. Yes.

19          Q. Would you be aware of any others that have  
20 occurred?

21          A. I had the police at another business that  
22 assisted me at a location at a business on Route 4.

23          Q. For a zoning code sign or object  
24 violation?

25          A. Yes, it was.

1       Fairfield Ford, but you did not identify an  
2       individual from Fairfield Ford with whom you had  
3       contact; do you recall the name of that person?

4           A.    No, I do not.

5           Q.    If I suggested it were Dan Johnson, would  
6       that refresh your recollection?

7           A.    I'm not sure.

8           Q.    Searching your memory today, do you have a  
9       clear memory of the communication with Fairfield Ford  
10      on either July 1st or July 31st, or both, 2003?

11          A.    Yes, I do.

12          Q.    And searching your recollection today,  
13       could you please state for the record exactly the  
14       conversation you had with a representative from  
15       Fairfield Ford starting with July 1st, 2003, please?

16          A.    What I recall is that I received a call  
17       towards the end of the day stating that the rat was  
18       put up. And it was in the city's right of way, and  
19       it was causing visibility and traffic, obstructing  
20       traffic coming down Route 4. And I told them I would  
21       be out to inspect it.

22          Q.    If I may interrupt for just a moment.  
23       It's your recollection that the caller stated that  
24       there were visibility and traffic interruptions,  
25       correct?

1           Q. And so it was located in that grassy area  
2 between the edge of Fairfield Ford's property and the  
3 gravel berm?

4           A. Yes, it was.

5           Q. Did you observe any traffic accidents  
6 occurring while you were present?

7           A. No.

8           Q. And approximately how many demonstrators  
9 were present at the time?

10          A. I don't recall exactly how many. There  
11 were quite a bit of people there.

12          Q. At what point on July 1st, 2003 did you  
13 determine you required assistance of the Fairfield  
14 police department?

15          A. I tried to talk to the demonstrators and  
16 ask them who was in charge of the demonstration and  
17 who put the balloon up, or the rat up, and I got no  
18 response from anybody.

19          Q. And that led you to do what?

20          A. To call the police for assistance.

21          Q. Do you have a clear memory in recollection  
22 of your communication with the police department at  
23 that time on that date?

24          A. I used my cell phone at the site.

25          Q. So the answer's yes, you do?

1 I talked to people. I told them I called for the  
2 police department, and that's all I can remember.

3 BY MR. COOK:

4 Q. I want to make sure we're absolutely  
5 clear. You did not call the police at the suggestion  
6 or insistence of a representative of Fairfield Ford?

7 A. That is correct.

8 Q. Why did you deem it necessary to report to  
9 the Fairfield Ford persons, or representatives, that  
10 you had called the police?

11 A. Because I was getting no cooperation from  
12 any of the union reps that were there or the  
13 picketers. I felt that they were, like, mocking you  
14 because they were not cooperating with you, and it  
15 was my first time to the site. I had a city vehicle  
16 and I had city identification, and there was still no  
17 cooperation.

18 Q. I think, Miss Matala, you misunderstood my  
19 question. You just told me why you thought it was  
20 necessary to call the police. My question was, why  
21 did you think it was necessary to report your action  
22 of calling the police to someone from Fairfield Ford?  
23 Why did they need to know that?

24 A. The call initially came to my office from  
25 Fairfield Ford, so it just made common sense to me